

REMARKS

Claims 1-67 are pending in this application. Claims 1, 10, 12, 34, 40, 50, 53 and 63 have been amended. Claim 17 has been cancelled. Claims 1-16 and 18-67 therefore remain pending in this broadening reissue application.

Reissue Declaration

The Examiner alleged that the reissue declaration submitted with this application is defective for failing to identify an "error" on which the reissue is based, and for failing to contain a statement that all errors being corrected in the reissue arose without deceptive intent. *See* Office Action at 2.

Applicant respectfully disagrees. The reissue declaration identifies the required "error" and includes the required statement regarding a lack of deceptive intent:

I verily believe the original patent to be wholly or partly inoperative or invalid for the reasons described below:

- ☐ by reason of a defective specification or drawing.
- ☒ by reason of the patentee claiming more or less than he had the right to claim in the patent.
- ☐ by reason of other errors.

At least one error upon which the reissue is based is described below. If the reissue is a broadening reissue, such must be stated with an explanation as to the nature of the broadening:

I believe the original patent did not include claims directed to subject matter which I have the right to claim in the patent. Specifically, I believe I had a right to claim the subject matter of claim 1 without the following limitation: "a computer controller responsive to said commands for specifying to said domain configurator which of said system units belong to each of said hardware domains." The absence of a broader claim drawn to such subject matter represents an "error" in the original patent. Accordingly, new claim 40 filed with the reissue application recites the limitations of claim 1 without at least the above-recited language.

All errors which are being corrected in the present reissue application up to the time of filing of this declaration arose without any deceptive intention on the part of the

applicant.

See Appendix A (including the entire reissue declaration).

Accordingly, Applicant submits that the reissue declaration filed with this application is not defective.

Recapture Rejections

The Examiner rejected claims 40, 50, 53, 57, and 63 under 35 U.S.C. § 251 as allegedly recapturing subject matter surrendered during prosecution. *See* Office Action at 2. Applicant traverses these rejections.

With respect to claim 40, the Examiner contended that the “omitted feature” in this claim is “the system being individually physically removable and replaceable within the computer.” *See* Office Action at 3. The Examiner then suggested that because this limitation was combined with dependent claim 2 in the Office Action Response dated September 18, 1998, the omission of this limitation constitutes “improper recapture.” *Id.*

Applicant respectfully disagrees. In the Office Action of June 12, 1998, the Examiner rejected claim 1, but objected to claim 2 as being dependent on a rejected base claim, but otherwise allowable. *See* Office Action of June 12, 1998, at 2, 5. In response, Applicant amended claim 2 as an independent claim to include all of the limitations of claim 1. *See* Office Action Response of September 14, 1998, at 1-2, 12. Claim 1 was cancelled. *Id.* at 1. Amended claim 2 eventually issued as claim 1 in U.S. Patent No. 5,931,938. The features of originally filed claim 2 relating to the “domain filter” are present in reissue claim 40. *See* Appendix B-1. Furthermore, the features of originally filed claim 1 **not** present in reissue claim 40 are the “removable/replaceable” limitation and the “computer controller” limitation. *See* Appendix B-1. Applicant thus submits the “removable/replaceable” limitation and the “computer controller”

limitation are not “germane” to the prior art rejection that led to the cancellation of originally filed claim 1 and amendment of originally filed claim 2. Accordingly, Applicant submits that the recapture rule does not apply. *In re Clement*, 131 F.3d 1464, 1470 (Fed. Cir. 1997).

Applicant also submits that there is no improper recapture with regard to reissue claim 57, which was rejected by the Examiner under the same rationale as claim 40. *See* Appendix B-2.

The Examiner next rejected claim 50 based on alleged improper recapture, comparing claim 50 in the reissue application with application claim 8 (now issued claim 10). *See* Office Action at 3. Claim 8 was amended during prosecution to incorporate the limitations of independent claim 1. *See* Office Action Response of September 14, 1998. A comparison of application claim 1 (which application claim 8 issued from as claim 10) and reissue application claim 50 is attached Appendix B-3. Applicant submits that no improper recapture exists for reasons similar to those expressed in above in the context of claim 40.

The Examiner also rejected claim 53 under the recapture doctrine, citing an alleged argument for patentability made in relation to application claim 36 (now patented claim 34). In particular, the Examiner has alleged that improper recapture exists with respect to the “omitted feature” of the “system being individually removable and replaceable.” *See* Office Action at 3 (citing alleged argument-based recapture at page 12 of the Office Action Response of September 14, 1998). Applicant traverses this rejection, and respectfully submits that the arguments at page 12 of the September 14, 1998, Office Action Response were made in relation to the “control-signal distributor” limitation of application claim 36. The entire text of this passage is reproduced below:

New claim 36 reflects a difference in the present invention that is absent from any

valid combination of the cited art. The cited patent to Dahl communicated “messages” from one processor to another over routing circuit 10. These messages represent input/output data produced by instructions executing in one processor and operated upon by another processor in the array. The messages are addressed by the sending processor to a specific receiving processor. **These two aspects, among others, clearly differentiate the routing circuits 10 from the “control-signal distributor of the present invention.** As clearly stated on page 10, lines 13-22, for example, the control signals represent error and status conditions rather than the results of computation, and they are hard-wired to all the system nits, rather than being selectively connected to certain processors under the control of those processors. That is, Dahl’s routing circuits correspond to Applicant’s data routers, and not to the control-signal distributor. Further, the signals carried by Dahl’s routing circuits only provide data for computations; this data does not affect the operation of the entire system in any way-such as shutting the whole system down, or interrupting instruction execution of all the system units while a memory fault clears in one of them.

New claim 36 is drawn to this difference in operation. First, the system conditions are recited to be “error and status conditions,” as opposed to the computational data carried by Dahl’s routing circuits. Second, the control signals travel from any one of the system units to “all” other system units, not to Dahl’s selectable one of the other units. Finally, as stated above, Dahl’s routing circuits never affect “the entire operation” of all of the system units.

See Office Action of September 14, 1998 at 12 (emphasis added)

Applicant clearly submits that any “arguments” in this passage refers to the “control-signal distributor” limitation of application claim 36, as evidenced by the bolded language in the passage quoted above. Indeed, the present Office Action further confirms that page 12 of the September 1998 response refers to the control-signal distributor limitation. *See Office Action at 4.* Indeed, the control-signal distributor limitation is present, **in identical fashion**, in reissue claim 53. *See Appendix B-5.* Accordingly, because there has been no broadening with respect to the “control-signal distributor” limitation, Applicant respectfully submits that there is no argument-based recapture with respect to reissue claim 53.

Still further, the Examiner rejected reissue claim 63 for improper recapture based on the omission of “control-signal distributor” from claim 63 relative to application claim 14. *See Office Action at 4.* While Applicant disagrees that recapture exists in claim 63, *see Appendix B-5*, Applicant has nevertheless amended claim 63 to refer to a “control-signal distributor.”

Applicant thus respectfully submits that this amendment overcomes the pending rejection for

alleged improper recapture.

Art Rejections

The Examiner rejected claims 1, 10, 12, 16, 20, 34, 40, 50, and 53 under 35 U.S.C. § 102(b) in view of Li et al., U.S. Patent No. 5,473,599. *See* Office Action at 4. Applicant traverses these rejections.

With respect to claim 1, Applicant respectfully submits that Li clearly does not anticipate this claim. Most fundamentally, Li does not teach a “multiprocessor computer” as recited in claim 1. In the present Office Action, the Examiner points to Fig. 2b as teaching a multiprocessor computer. *See* Office Action at 4. Applicant respectfully disagrees. For example, Fig. 2b of Li depicts hosts H1 and H2. *See* Fig. 2b; col. 7, lines 45, 47. Furthermore, Li defines “host” as follows at col. 4, lines 7-9:

A "host" is a PC or other arbitrary network entity residing on a LAN and communicating with network entities outside of its own LAN through a router or bridge.

Accordingly, Applicant submits that Fig. 2b of Li does not teach or suggest a “multiprocessor computer” as recited in claim 1.

Given that Li does not teach or suggest a multiprocessor computer as recited in claim 1, it follows that Li also does not teach or suggest a multiprocessor computer comprising any of the various elements recited in claim 1. For example, Li does not teach or suggest “a multiprocessor computer having hardware domains variably configurable by commands from an operator,” as recited in amended claim 1. The Examiner has not pointed to any passage in Li that even refers to “domains,” let alone “a multiprocessor computer having hardware domains that are “variably configurable.” The Examiner has pointed to col. 15, col. 30-35 as allegedly teaching this

limitation, but Applicant finds no teaching or suggestion of the claimed “hardware domains” in that passage. Accordingly, Li also does not teach or suggest the “domain configurator” or “domain filter” of claim 1.

In short, Applicant respectfully submits that Li teaches none of the claim limitations of claim 1. Accordingly, claim 1 and its dependent claims 2-9 are believed to be in condition for allowance.

Independent claim 10, 20, 34, 40, 50, and 53 also recite a “multiprocessor computer.” Applicant submits that Li does not anticipate these claims for similar reasons expressed above in relation to claim 1. Accordingly, claims 10-11, 20-25, 34-36, 40-56 are all believed to be in condition for allowance.

With respect to the Examiner’s rejection of claim 12 based on Li, Applicant submits, as noted above, that Li does not teach or suggests “domains,” let alone a computer having a “domain filter” or a method of partitioning a computer into a “plurality of independent hardware domains.” Accordingly, Applicant respectfully submits that Li does not anticipate claim 12. Claims 12-15 are thus believed to be patentably distinct from Li and in condition for allowance. Claims 16-19 and 37-39, which include similar limitations to claim 12, are therefore also believed to be in condition for allowance as well.

The Examiner also rejected claim 26 as being unpatentable under 35 U.S.C. § 103(a) over Li in view of Raab, U.S. Patent No. 5,751,967. In doing so, the Examiner alleged that the “multiprocessor computer” of claim 26 was taught by Li, and that Raab taught a “domain mask register.” As stated above, Applicant respectfully disagrees that Li teaches a multiprocessor computer, much less a “system unit of a plurality of system units for a multiprocessor computer” as recited in claim 26. Applicant thus submits that the Examiner has not established a *prima*

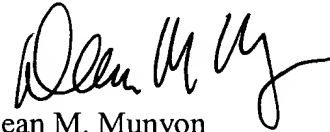
facie case of obviousness with respect to claim 26 because all claim limitations are not found in the cited references. *See* MPEP § 2143.03. Applicant thus submits that claim 26, and dependent claims 27-33 are thus in condition for allowance.

CONCLUSION

Applicant submits the application is in condition for allowance, and an early notice to that effect is requested.

If any fees are due, the Commissioner is authorized to charge said fees to Meyertons, Hood, Kivlin, Kowert, & Goetzel, P.C. Deposit Account No. 501505/5181-92401/DMM.

Respectfully submitted,



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